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Name of Applicant, Assignee or
Registered Representative

F. David AuBuchon
Signature

September 5, 2000
Date of Signature

GAU 1743

D. Lawrence
#9
9.13.00

Our Case No. 10580/3-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bernard Bendiner)

Serial No.: 09/336,612)

Filing Date: June 18, 1999, CPA August 9, 2000)

For: SORBIC ACID AND/OR ITS)
DERIVATIVES SUCH AS)
POTASSIUM SORBATE AS A)
PREVENTATIVE FOR RUST,)
CORROSION AND SCALE ON)
METAL)

Examiner: LaToya Cross

Group Art Unit No.: 1743

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SUBMISSION OF DECLARATION

UNDER 37 CFR 1.132

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

A declaration of Bernard Bendiner, the sole inventor of the invention of this application, and the following remarks are being filed in this application.

REMARKS

The Advisory Action, of July 26, 2000 has been carefully considered.

A CONTINUED PROSECUTION APPLICATION was filed on August 9, 2000. This response to the Advisory Action of July 26, 2000, is hereby made in the CONTINUED PROSECUTION APPLICATION.

In the Advisory Action of July 26, 2000 the following is stated:


It is suggested that App. Submit unexpected results showing over these prior art solutions (Develter '226 and Merciadetz et al '902). App. have shown unexpected results over the use of tap water alone, however, evidence must be shown to prove that Applicants' invention is unexpected over the prior art solutions which are similar, in composition.

Applicant has carried out the suggestion contained in the Advisory Action by producing the solutions disclosures in the Develter (3,630,226) and Merciadetz et al (5,354,902) patents and exposing ungalvanized nails to these solutions for a 24 hour period. Colored photographs have been taken to document these test. The test results clearly shows that the nails that were exposed to the Develter and Merciadetz et al solutions were rusted at the end of the 24 hour test period. The rust is visible on the nails and in the discoloration produced in the solutions.

In addition to the Develter and Merciadetz et al solutions, a solution having 0.110% by weight of Potassium Sorbate in 99.89% of Purified Water was placed in the fifth

glass beaker. Ungalvanized nails were placed in this solution for a period of 24 hours. The ungalvanized nails in the fifth glass beaker, see Exhibit N, were rusted at the end of the 24 hour test period. This test shows that a solution containing 0.110% potassium sorbate will not prevent rust and that the claims contained in this application include critical limitations that are responsible for applicants new and unexpected results.

This application is now believed to be in condition for allowance, in view of the enclosed DECLARATION UNDER 37 CFR 1.132 and these comments. Applicant therefore requests reconsideration and allowance of this application.

Dated: September 5, 2000 Respectfully submitted,

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